

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 23-157 (ADC)

[2] FERDINAND ESCOBAR-CASTILLO,

Defendant.

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
RE: RULE 11(c)(1)(B) GUILTY PLEA HEARING

I. Procedural Background:

On April 22, 2023, defendant Ferdinand Escobar-Castillo was charged in a multi-count superseding indictment. (Docket No. 42). He agreed to plead guilty to Counts One, Three, Twenty-Three, Thirty-Nine and Forty of said superseding indictment.

Count One charges that on or about March 4, 2023, in the District of Puerto Rico, and within the jurisdiction of this Court, Mr. Escobar-Castillo and others, aiding and abetting each other, with the intent to cause serious bodily harm, did take a motor vehicle, to wit: a grey 2019 Toyota Yaris with Puerto Rico license plate number JGF-536, which had been transported, shipped, and received in interstate and foreign commerce, from the person and in presence of an adult female, by force, violence, and intimidation. All in violation of 18 U.S.C. § 2119(1) and § 2.

1 Count Three charges than on or about March 4, 2023, in the District of Puerto
2 Rico, and within the jurisdiction of this Court, Mr. Escobar-Castillo and others, aiding
3 and abetting each other, with the intent to cause serious bodily harm, did take a motor
4 vehicle , to wit: a white 2016 Ford Edge with Puerto Rico license plate number IPS-497,
5 which had been transported, shipped, and received in interstate and foreign commerce,
6 from the person and in presence of an adult female, by force, violence, and intimidation.
7 All in violation of 18 U.S.C. § 2119(1) and § 2.

9 Count Twenty-Two charges that on or about February 27, 2023, in the District of
10 Puerto Rico, and within the jurisdiction of this Court, Mr. Escobar-Castillo and others,
11 aiding and abetting each other, with the intent to cause serious bodily harm, did take a
12 motor vehicle , to wit: a grey 2023 Honda HR-V with Puerto Rico license plate number
13 JHG-510, which had been transported, shipped, and received in interstate and foreign
14 commerce, from the person and in presence of an adult female, by force, violence, and
15 intimidation. All in violation of 18 U.S.C. § 2119(1) and § 2.

17 Count Thirty-Nine charges that on or about March 2, 2023, in the District of
18 Puerto Rico, and within the jurisdiction of this Court, Mr. Escobar-Castillo and others,
19 aiding and abetting each other, and being aided and abetted by others, did unlawfully
20 obstruct, delay and affect the movement of article and commodities in such commerce,
21 by robbery, that did unlawfully take the Shell in Magnolia Gardens, Puerto Rico, a gas
22 station selling gasoline, beverages, prepared food, cigarettes, and other products, that
23 moved in interstate and foreign commerce, an approximately four-hundred (\$400.00)
24 dollars and electronic cigarettes, from and in presence of an employee, against their will
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1 by means of actual and threatened force, violence, and fear of injury, immediate and
2 future, to their person. All in violation of 18 U.S.C. § 1951 and § 2.

3 Count Forty charges that on or about March 2, 2023, in the District of Puerto Rico,
4 and within the jurisdiction of this Court, Mr. Escobar-Castillo and others, aiding and
5 abetting each other, and being aided and abetted by others, did knowingly possess and
6 brandish a firearm in furtherance of a crime of violence that may be prosecuted in a court
7 of the United States, namely a Hobbs Act Robbery as charged in Count Thirty-Nine of
8 this indictment. All in violation of 18 U.S.C. § 924(c)(1)(A)(ii) and § 2. However, for
9 purposes of the plea agreement, Mr. Escobar-Castillo would plead guilty to the lesser
10 included offense of 18 U.S.C. § 924(c)(1)(A)(i).

11 Defendant appeared before me, assisted by the court interpreter, on May 30, 2024,
12 after the Rule 11 hearing was referred to me by the Presiding District Judge. *See United*
13 *States v. Woodard*, 387 F.3d 1329 (11th Cir. 2004) (magistrate judge had authority to
14 conduct Rule 11 guilty plea hearing with consent of defendant). He was advised of the
15 purpose of the hearing and placed under oath with instructions that his answers must be
16 truthful lest he subject himself to possible charges of perjury or making a false statement.

17 **II. Consent to Proceed Before a Magistrate Judge:**

18 Defendant was provided with a Waiver of Right to Trial by Jury form, which he
19 signed.¹ He was advised of his right to hold all proceedings, including the change of plea

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27 ¹ The form entitled Consent to Proceed Before a United States Magistrate Judge in a Felony Case for
28 Pleading Guilty (Fed. R. Crim. P. 11) and Waiver of Jury Trial, signed and consented by both parties is
made part of the record.

1 hearing, before a district court judge. He received an explanation of the differences
2 between the scope of jurisdiction and functions of a district judge and a magistrate judge.
3 He was informed that if he elected to proceed before me, a magistrate judge, that I would
4 conduct the hearing and prepare a report and recommendation, subject to review and
5 approval of the district judge. The defendant then voluntarily consented to proceed
6 before me.
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8 **III. Proceedings Under Rule 11 of the Federal Rules of Criminal** 9 **Procedure:**

10 Rule 11 of the Federal Rules of Criminal Procedure governs the acceptance of
11 guilty pleas to federal criminal violations. Pursuant to Rule 11, in order for a plea of guilty
12 to constitute a valid waiver of the defendant's right to trial, the guilty plea must be
13 knowing and voluntary. *United States v. Hernandez-Wilson*, 186 F.3d 1, 5 (1st Cir. 1999).
14 "Rule 11 was intended to ensure that a defendant who pleads guilty does so with an
15 'understanding of the nature of the charge and consequences of his plea.'" *United States*
16 *v. Cotal-Crespo*, 47 F.3d 1, 4 (1st Cir. 1995) (quoting *McCarthy v. United States*, 394 U.S.
17 459, 467 (1969)). There are three core concerns in a Rule 11 proceeding: 1) absence of
18 coercion; 2) understanding of the charges; and 3) knowledge of the consequences of the
19 guilty plea. *Cotal-Crespo*, 47 F.3d at 4 (citing *United States v. Allard*, 926 F.2d 1237, 1244
20 (1st Cir. 1991)).
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22 **A. Competence to Enter a Guilty Plea**

23 I questioned the defendant about his age, education, employment, history of any
24 treatment for mental illness or addiction, use of any medication, drugs, or alcohol, and
25 his understanding of the purpose of the hearing, all in order to ascertain his capacity to
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1 understand, answer and comprehend the change of plea colloquy. I confirmed that the
2 defendant received the indictment and fully discussed the charges with his attorney and
3 was satisfied with the advice and representation he received. In addition, I further
4 inquired whether defendant's counsel or counsel for the government had any doubt as to
5 his capacity to plead, receiving answers from both that the defendant was competent to
6 enter a plea. After considering the defendant's responses, and observing his demeanor,
7 a finding was made that Mr. Escobar-Castillo was competent to plead and fully aware of
8 the purpose of the hearing.
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10 **B. Maximum Penalties**

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12 Upon questioning, the defendant expressed his understanding of the maximum
13 and minimum penalties prescribed by statute for the offense to which he was pleading
14 guilty, namely for Counts One, Three, Twenty-Three: a term of imprisonment of fifteen
15 (15) years, a fine not to exceed two hundred and fifty thousand dollars (\$250,000.00),
16 and a supervised release term of not more than three (3) years in addition to any term of
17 incarceration.
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19 Count Thirty-Nine: a term of imprisonment of twenty (20) years, a fine not to
20 exceed two hundred and fifty thousand dollars (\$250,000.00), and a supervised release
21 term of not more than three (3) years in addition to any term of incarceration.
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23 Count Forty: a term of imprisonment of life, a fine not to exceed two hundred and
24 fifty thousand dollars (\$250,000.00), and a supervised release term of not more than
25 five (5) years in addition to any term of incarceration. However, since defendant was
26 pleading to the lesser included offense of 18 U.S.C. § 924(c)(1)(A)(i), he was explained
27 and understood that he was exposed to a term of imprisonment of not less than five (5)
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1 years and up to life, a fine not to exceed two hundred and fifty thousand dollars
2 (\$250,000.00), and a supervised release term of not more than five (5) years in addition
3 to any term of incarceration.

4 The defendant also understood that a Special Monetary Assessment of \$100.00
5 would be imposed, to be deposited in the Crime Victim Fund, pursuant to Title 18, United
6 States Code, Section 3013(a). The court explained the nature of supervised release and
7 the consequences of revocation. The defendant indicated that he understood the
8 maximum and minimum penalties for Counts One, Three, Twenty-Three, Thirty-Nine
9 and Forty, and the potential consequences of the guilty plea.

10 **C. Plea Agreement**

11 Mr. Escobar-Castillo was shown his plea agreement, and the plea agreement
12 supplement, which are part of the record, and identified his initials and signatures. He
13 confirmed that he had the opportunity to read and discuss the plea agreement with his
14 attorney before he signed it, that it represented the entirety of his understanding with
15 the government, that he understood its terms, and that no one had made any other or
16 different promises or assurances to induce him to plead guilty.

17 The defendant was then admonished, pursuant to Fed. R. Crim. P. 11(c)(1)(B) and
18 expressed his understanding that the terms of the plea agreement are merely
19 recommendations to the court, and that the district judge who will preside over the
20 sentencing hearing can reject the recommendation without permitting the defendant to
21 withdraw his guilty plea, and impose a sentence that is more severe than the defendant
22 might anticipate. The defendant was specifically informed that the court, after
23 considering the applicable Sentencing Guidelines, could impose a sentence different
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1 from any estimate in the plea agreement or provided by his attorney, and that the court
2 had the authority to impose a sentence that is more severe or less severe than the
3 sentence called for by the Sentencing Guidelines. The defendant was advised, and
4 understood, that the Sentencing Guidelines are no longer mandatory and are thus
5 considered advisory, and that during sentencing the court will consider the sentencing
6 criteria found at Title 18, United States Code, Section 3553(a).

8 The defendant was advised that under some circumstances he or the government
9 may have the right to appeal the sentence the court imposes, but that pursuant to the
10 plea agreement the defendant will waive his right to appeal both his sentence and his
11 conviction if the court adopts the plea agreement and sentences him according to its
12 terms and conditions.

14 **D. Waiver of Constitutional Rights**

15 The defendant was specifically advised that he has the right to persist in a plea of
16 not guilty, and if he does so persist that he has the right to a speedy and public trial by
17 jury, or trial before a judge sitting without a jury if the court and the government so agree;
18 that at trial he would be presumed innocent and the government would have to prove his
19 guilt beyond a reasonable doubt; that he would have the right to the assistance of counsel
20 for his defense, and if he could not afford an attorney the court would appoint one to
21 represent him throughout all stages of the proceedings; that at trial he would have the
22 right to hear and cross examine the government's witnesses, the right to decline to testify
23 unless he voluntarily elected to do so, and the right to the issuance of subpoenas or
24 compulsory process to compel the attendance of witnesses to testify. He was further
25 informed that if he decided not to testify or put on evidence at trial, the failure to do so
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1 could not be used against him, and that at trial the jury must return a unanimous verdict
2 before he could be found guilty or not guilty.

3 The defendant specifically acknowledged understanding these rights and
4 understanding that by entering a plea of guilty there would be no trial and he will be
5 waiving or giving up the rights I explained.
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7 The defendant was informed that parole has been abolished and that any sentence
8 of imprisonment must be served, and that his guilty plea may result in loss of important
9 civil rights, such as the right to vote, to hold public office, to serve on a jury, and to
10 possess a firearm. The defendant confirmed that he understood these consequences of
11 the guilty plea.
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13 **E. Factual Basis for the Guilty Plea**

14 Defendant was read in open court Counts One, Three, Twenty-Three, Thirty-Nine
15 and Forty of the superseding indictment and provided an explanation of the elements of
16 the offense. The meaning of terms used in the indictment was explained.
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18 Upon questioning, the defendant admitted to facts constituting all of the elements
19 of the offense charged in Counts One Three, Twenty-Three, Thirty-Nine and Forty and
20 that the evidence the government had available to establish, in the event defendant
21 elected to go to trial, the defendant's guilt beyond a reasonable doubt.
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23 **F. Voluntariness**

24 The defendant indicated that he was not being forced to plead guilty but was
25 entering such a plea freely and voluntarily because in fact he is guilty, and that no one
26 had threatened him or offered a thing of value in exchange for his plea. He acknowledged
27 that no one had made any different or other promises in exchange for his guilty plea,
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1 other than the recommendations set forth in the plea agreement. Throughout the hearing
2 the defendant was able to consult with his attorney.

3 **IV. Conclusion:**

4 The defendant, by consent, appeared before me pursuant to Rule 11 of the Federal
5 Rules of Criminal Procedure, and entered a plea of guilty as to Counts One, Three,
6 Twenty-Three, Thirty-Nine and Forty of the superseding indictment. After cautioning
7 and examining the defendant under oath and in open court concerning each of the
8 subject matters mentioned in Rule 11, I find that the defendant, Ferdinand Escobar-
9 Castillo is competent to enter this guilty plea, is aware of the nature of the offense charged
10 and the maximum statutory penalties that it carries, understands that the charge is
11 supported by evidence and a basis in fact, has admitted to the elements of the offense,
12 and has done so in an intelligent and voluntary manner with full knowledge of the
13 consequences of his guilty plea. Therefore, I recommend that the court accept the guilty
14 plea and that the defendant be adjudged guilty as to Counts One, Three, Twenty-Three,
15 Thirty-Nine and Forty of the superseding indictment.

16 This report and recommendation is filed pursuant to 28 U.S.C. § 636(b)(1)(B) and
17 Rule 72(d) of the Local Rules of this Court. Any objections to the same must be specific
18 and must be filed with the Clerk of Court **within 14 days**. Failure to file timely and
19 specific objections to the report and recommendation is a waiver of the right to appellate
20 review. *See Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Davet v. Maccorone*, 973 F.2d 22,
21 30–31 (1st Cir. 1992); *Paterson-Leitch Co. v. Mass. Mun. Wholesale Elec. Co.*, 840 F.2d
22 985 (1st Cir. 1988); *Borden v. Sec’y of Health & Human Servs.*, 836 F.2d 4, 6 (1st Cir.
23 1987).

IT IS SO RECOMMENDED

In San Juan, Puerto Rico this 30th day of May, 2024.

S/Héctor L. Ramos-Vega
HÉCTOR L. RAMOS-VEGA
UNITED STATES MAGISTRATE JUDGE